

REMARKS

Claims 1-29 are pending in this application. Claims 1-29 stand rejected. By this Amendment, claims 1, 2, 4, 5, 8, and 24 have been amended. The amendments made to the claims do not alter the scope of these claims, nor have these amendments been made to define over the prior art. Rather, the amendments to the claims have been made to improve the form thereof. In light of the amendments and remarks set forth below, Applicants respectfully submit that each of the pending claims is in immediate condition for allowance.

Claims 1-5, 7, and 15-23 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,281,756 (“Kawashima”). Applicants respectfully traverse this rejection.

To anticipate a claim under 35 U.S.C. § 102, the cited reference must disclose every element of the claim, as arranged in the claim, and in sufficient detail to enable one skilled in the art to make and use the anticipated subject matter. See, PPG Industries, Inc. v. Guardian Industries Corp., 75 F.3d 1558, 1566 (Fed. Cir. 1996); C.R. Bard, Inc. v. M3 Sys., Inc., 157 F.3d 1340, 1349 (Fed. Cir. 1998). A reference that does not expressly disclose all of the elements of a claimed invention cannot anticipate unless all of the undisclosed elements are inherently present in the reference. See, Continental Can Co. USA v. Monsanto Co., 942 F.2d 1264, 1268 (Fed. Cir. 1991).

Among the limitations of the above-recited claims not present in the cited reference is a plurality of performance operators arranged apart from each other and each of the performance operators allows the user to play a musical performance.

Kawashima discloses an electronic musical instrument with performance operators such as pads. However, Kawashima does not disclose the overall musical instrument including its configuration. The plurality of pads P0-P4 are arranged to be separated from the main body of a musical instrument and are arranged to realize easy access by the player. (Col. 7, lns. 15-18.) As shown in Figure 1 of Kawashima, pads P0-P4 are a single block named “PAD”. As such, Kawashima does not clearly describe that a plurality of pads are arranged to be separated from each other.

Kawashima states that the pads may be placed as desired by the player at a location easy to access by the player. However, this states that the plurality of pads are operated by a single player, not a plurality of players. As such, Kawashima discloses that a single player operates a plurality of pads which are collectively arranged at a certain location allowing the player to easily operate an electronic musical instrument.

In contrast, Applicants explicitly recite that there is a plurality of performance operators arranged apart from each other and that each of the performance operators allows the user to play a musical performance. Thus, Kawashima fails to disclose or indicate these features and claims 1-5, 7, and 15-23 are allowable over the cited reference.

Paragraph 4 of the Office Action rejects claims 6 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Kawashima in view of U.S. Patent No. 6,031,174 (“Takabayashi”). Applicants respectfully traverse this rejection.

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or combine references to arrive at the claimed subject matter. The prior art references must also teach or suggest all the limitations of the claim in question. See, M.P.E.P. § 706.02(j). A reference can only be used for what it clearly discloses or suggests. See, In re Hummer, 113 U.S.P.Q. 66 (C.C.P.A. 1957); In re Stencel, 4 U.S.P.Q.2d 1071, 1073 (Fed. Cir. 1987). Here, the references, whether taken individually or in combination, do not disclose or suggest the invention claimed by the Applicants.

As discussed above, Kawashima fails to disclose each and every limitation in the independent claims from which claims 6 and 16 depend. Takabayashi was not included to cure the deficiency but to show additional features which, even if it were to show, fail to cure the deficiencies discussed above. Therefore, Applicants respectfully submit that claims 6 and 16 are allowable over the cited references.

Claims 8-14 and 24-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kawashima. Applicants respectfully traverse this rejection.

As discussed above, Kawashima fails to disclose the plurality of performance operators arranged apart from each other and each of the performance

operators allows the user to play a musical performance. These explicitly recited claim limitations are not disclosed in Kawashima. Therefore, Applicants respectfully request that the Examiner reconsideration and withdraw the rejections to those claims.

Applicants have responded to all of the rejections and objections recited in the Office Action. Reconsideration and a Notice of Allowance for all of the pending claims are therefore respectfully requested.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If the Examiner believes an interview would be of assistance, the Examiner is welcome to contact the undersigned at the number listed below.

Dated: December 17, 2004

Respectfully submitted,

By 

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